

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 Frederick O. Silver,

4 Plaintiff

5 v.

6 Steven B. Wolfson, et al.

7 Defendants  
8

Case No.: 2:18-cv-01106-JAD-CWH

**Order Adopting  
Report & Recommendation  
and Dismissing Case**

[ECF No. 19]

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10 Pro se plaintiff Frederick O. Silver sues the Clark County Child Support Division/DA  
11 Family Support Enforcement Division, Clark County District Attorney Steven Wolfson, and  
12 others, alleging violations of the U.S. Constitution and various other state and federal laws based  
13 on efforts to collect child support from him for a child he claims is not his.<sup>1</sup> On January 16,  
14 2019, the court denied Silver's application to proceed *in forma pauperis* and ordered him to  
15 either submit a new, proper application or pay the \$400 filing fee by February 15, 2019.<sup>2</sup> Silver  
16 has done neither, and Magistrate Judge Hoffman recommends that Silver's lawsuit be dismissed  
17 for disregarding the court's order. The deadline to object to that report and recommendation was  
18 April 18, 2019, and Silver has not filed an objection or moved to extend the deadline to do so.  
19 "[N]o review is required of a magistrate judge's report and recommendation unless objections  
20 are filed."<sup>3</sup>  
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25 <sup>1</sup> ECF No. 7.

26 <sup>2</sup> ECF No. 14.

27 <sup>3</sup> *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas v. Arn*, 474  
28 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

1 District courts have the inherent power to control their dockets and “[i]n the exercise of  
2 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>4</sup> A  
3 court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a  
4 court order, or failure to comply with local rules.<sup>5</sup> In determining whether to dismiss an action  
5 on one of these grounds, the court must consider: (1) the public’s interest in expeditious  
6 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the  
7 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
8 availability of less drastic alternatives.<sup>6</sup>

9 The first two factors, the public’s interest in expeditiously resolving this litigation and the  
10 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The  
11 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a  
12 presumption of injury arises from the occurrence of unreasonable delay in taking action ordered  
13 by the court or prosecuting an action.<sup>7</sup> A court’s warning to a party that its failure to obey the  
14 court’s order will result in dismissal satisfies the fifth factor’s “consideration of alternatives”  
15 requirement,<sup>8</sup> and that warning was given here.<sup>9</sup> The fourth factor—the public policy favoring  
16 disposition of cases on their merits—is greatly outweighed by the factors favoring dismissal.

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18 <sup>4</sup> *Thompson v. Hous. Auth. of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

19 <sup>5</sup> See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with  
20 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to  
21 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–  
22 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to  
23 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.  
1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

24 <sup>6</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
*Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

25 <sup>7</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

26 <sup>8</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

27 <sup>9</sup> ECF Nos. 14, 19.  
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1           Accordingly, with good cause appearing and no reason to delay, IT IS HEREBY  
2 ORDERED that the Report and Recommendation [ECF No. 19] is **ADOPTED**, and **this case is**  
3 **DISMISSED** for failure to pay the filing fee as directed by the court. **The Clerk of Court is**  
4 **directed to ENTER JUDGMENT accordingly and CLOSE THIS CASE.**

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8 U.S. District Judge Jennifer A. Dorsey  
9 Dated: April 22, 2019  
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